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Agriculture Products

Executive Reorganization Order 40, July 1, 2011

74-5,112. (a) There is hereby established, within and as a part of the Kansas department of agriculture, the agriculture marketing and promotions program.

(b) (1) The secretary of agriculture shall appoint such employees as may be needed to carry out the powers and duties of the program, and all such officers and employees shall be within the classified or unclassified service.

(2) All employees shall act for and exercise the powers of the secretary of agriculture to the extent that authority to do so is delegated by the secretary of agriculture.

74-5,113. (a) The agriculture products development division within the department of commerce created by K.S.A. 74-50,156, and amendments thereto, is hereby abolished.

(b) Except as otherwise provided by this order, all powers, duties and functions of the agriculture products development division within the department of commerce created by K.S.A. 74-50,156, and amendments thereto, are hereby transferred to and imposed upon the agriculture marketing and promotions program within the Kansas department of agriculture created herein.

74-5,114. (a) The agriculture marketing and promotions program within the Kansas department of agriculture shall be the successor in every way to the powers, duties and functions of the agriculture products development division within the department of commerce which were in effect prior to the effective date of this order and that are transferred pursuant to section 2. Every act performed in the exercise of such transferred powers, duties and functions by or under the authority of the agriculture marketing and promotions program within the Kansas department of agriculture shall be deemed to have the same force and effect as if performed by the agriculture products development division within the department of commerce in which such powers, duties and functions were in effect prior to the effective date of this order.

(b) Whenever the agriculture products development division or words of like effect are referred to or designated by a statute, contract, or other document and such reference is in regard to any of the powers, duties, or functions transferred to the agriculture products marketing and promotions program such reference or designation shall be deemed to apply to the program or the secretary of agriculture.

(c) All rules and regulations, orders and directives of the agriculture products development division within the department of commerce which relate to the functions transferred by this order and which are in effect on the effective date of this order shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the agriculture marketing and promotions program within the Kansas department of agriculture transferred herein until revised, amended, revoked or nullified pursuant to law.

74-5,115. (a) The balances of all funds or accounts thereof appropriated or reappropriated for the agriculture products development division within the department of commerce relating to the powers, duties and functions transferred by this order are hereby transferred within the state treasury to the agriculture marketing and promotions program within the Kansas department of agriculture transferred herein and shall be used only for the purpose for which the appropriation was originally made.

(b) Subject to acts of the legislature, all fees, grant funds, and loan repayment funds dedicated to the agriculture products development division within the department of commerce prior to the effective date of this order shall be transferred to the agriculture marketing and promotions program within the department of agriculture.

(c) Liability for all accrued compensation or salaries of officers and employees who are transferred from the agriculture products development division within the department of commerce under this order shall be assumed and paid by the agriculture marketing and promotions program within the Kansas department of agriculture.

74-5,116. (a) When any conflict arises as to the disposition of any property, power, duty or function or the unexpended balance of any appropriation as a result of any abolition or transfer made by or under the authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

(b) The agriculture marketing and promotions program within the Kansas department of agriculture shall succeed to all property, property rights and records which were used for or pertain to the performance of powers, duties and functions transferred to the division. Any conflict as to the proper disposition of property, personnel, or records arising under this order shall be determined by the governor, whose decision shall be final.

74-5,117. (a) No suit, action, or other proceeding, judicial or administrative, lawfully commenced or which could have been commenced, by or against any state agency or program mentioned in this order, or by or against any officer of the state in such officer's official duties, shall abate by reason of the governmental reorganization effected under the provisions of this order. The court may allow any such suit, action or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this order.

74-5,118. (a) The secretary of agriculture shall determine such employees as are necessary to enable the secretary to carry out the duties of the agriculture marketing and promotions program. All officers and employees of the agriculture products development division within the department of commerce who, immediately prior to the effective date of this order, are engaged in the exercise and performance of the powers, duties and functions transferred by this order, who are determined by the secretary of agriculture to be engaged in providing administrative, technical or other support services that are essential to the exercise and performance of the powers, duties and functions transferred by this order, are hereby transferred to the agriculture marketing and promotions program within the Kansas department of agriculture. All classified employees so transferred shall retain their status as classified employees. Thereafter, the secretary of agriculture may convert vacant classified positions to positions in the unclassified service under the Kansas civil service act.

(b) Officers and employees of the agriculture products development division within the department of commerce transferred by this order shall retain all retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer. The service of each such officer and employee so transferred shall be deemed to have been continuous. Any subsequent transfers, layoffs or abolition of classified service positions under the Kansas civil service act shall be made in accordance with the civil service laws and any rules and regulations adopted thereunder. Nothing in this order shall affect the classified status of any transferred person employed by the agriculture products development division of the department of commerce prior to the date of transfer.

First transfer statutes:

74-50,156. Establishing the agriculture products development division; powers, duties and objectives thereof; agricultural value added center; trademark registration; report to the legislature; fulfillment of contracts. (a) There is hereby established within and as a part of the department of commerce the agriculture products development division. The secretary of commerce shall appoint a director of such division and such director shall be in the unclassified service of the Kansas civil service act. Subject to and in accordance with appropriations acts, the agriculture products development division shall include: (1) All powers, duties and functions related to the agricultural value added center pursuant to subsections (b) and (c);

(2) all powers and duties created regarding the division of markets pursuant to K.S.A. 74-530, and amendments thereto, which are hereby transferred;

(3) all powers and duties created regarding registered trademarks pursuant to K.S.A. 74-540a, and amendments thereto, which are hereby transferred;

(4) all powers and duties regarding the trademark fund pursuant to K.S.A. 74-540b, and amendments thereto, which are hereby transferred; and (5) all powers and duties created regarding expenditures and moneys credited to the market development fund pursuant to K.S.A. 74-540c, and amendments thereto, which are hereby transferred.

(b) The objectives of the agricultural value added center within the agriculture products development division shall include, but not be limited to, providing technical assistance to existing and potential value added facilities, including incubator facilities; developing a network for collecting and distributing information to individuals involved in value added processing in Kansas; initiating pilot plant facilities to act as research and development laboratories for existing and potential small scale value added processing endeavors in Kansas; providing technical assistance to new agricultural value added businesses; developing and promoting communication and cooperation among private businesses; state government agencies and public and private colleges and universities in Kansas; establishing research and development programs in technologies that have value added commercial potential for food and nonfood agricultural products achieving substantial and sustainable continuing growth for the Kansas economy through value added products from agriculture; serving as a catalyst for industrial agriculture through technological innovation in order to expand economic opportunity for all Kansas communities; establishing an

industrial agriculture industry for the state of Kansas; commercializing the developed industrial agriculture technology in smaller communities and the rural areas of Kansas; and developing investment grade agriculture value added technologies and products.

(c) Subject to the provisions of appropriations acts, the functions of the agricultural value added center within the agriculture products development division shall include, but not be limited to, developing a market referral program, matching distribution to buyers in coordination with other state agencies concerned with marketing Kansas products; assisting private entrepreneurs in the establishment of facilities and markets for new agricultural value added endeavors; and introducing coordinated programs to develop marketing skills of existing agricultural value adding processors in Kansas.

(d) (1) It shall be the duty of the agriculture products development division to perform acts and to do, or cause to be done, those things which are designed to lead to the more advantageous marketing of agricultural products of Kansas. For these purposes the division may:

- (A) Investigate the subject of marketing farm products;
- (B) promote their sales distribution and merchandising;
- (C) furnish information and assistance to the public;
- (D) study and recommend efficient and economical methods of marketing;
- (E) provide for such studies and research as may be deemed necessary and proper;
- (F) gather and diffuse timely and useful information concerning the supply, demand, prevailing prices and commercial movement of farm products including quantity in common storage and cold storage, in cooperation with other public or private agencies;

(G) conduct market development activities and assist and coordinate participation by companies, commodity organizations, trade organizations, producer organizations and other interested organizations to develop new markets and sales for Kansas agricultural commodities and food products;

(H) render assistance to any of the entities listed in subsection (G) and development activities and make a reasonable service charge for such services rendered by the division; and

(I) make agreements with other states and with the United States government, or its agencies, and accept funds from the federal government, or its agencies, or any other source for research studies, investigation, market development and other purposes related to the duties of the division.

(2) The department of commerce shall remit all moneys received under this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the market development fund. All expenditures from such fund shall be made for any purpose consistent with this subsection and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or a person designated by the secretary.

(e) (1) In conjunction with any trademark registered by the department of commerce, the agriculture products development division is hereby authorized to:

- (A) Promulgate policy regarding the use of any such trademark;
- (B) print, reproduce or use the trademark in or on educational, promotional or other material;
- (C) fix, charge and collect fees for the use of the trademark provided that the fees shall be fixed in an amount necessary to recover all direct costs associated with the production of educational, promotional and other materials associated with a trademark program; and
- (D) enter into any contracts necessary to carry out the purposes of this subsection, which contracts shall not be subject to the bidding requirements of K.S.A. 75-3739, and amendments thereto.

(2) The secretary of commerce shall remit all moneys received under this subsection to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the trademark fund. All expenditures from such fund shall be made for any purpose consistent with this subsection and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or a person designated by the secretary.

(f) On or before February 1 of each year, the agriculture products development division shall present an oral and written report to the house and senate agriculture committees concerning the performance indicators, performance outcomes, activities and functions of the division for the previous year. Such report shall include a budget of how moneys appropriated or otherwise authorized to be expended from the state general fund or any special revenue fund for the agriculture products development division of the department of commerce for the previous fiscal year were spent and a projected budget of moneys appropriated or otherwise authorized to be expended from the state general fund or any special revenue fund for the agriculture products development division of the department of commerce for the current fiscal year. Such report shall further include the full-time equivalent number of positions financed from appropriations and allocated for the agriculture products development division of the department of commerce for each fiscal year. In the report to the 1997 legislature, the division's report shall include a mission statement for the reorganized division.

(g) Subject to appropriation acts, the secretary of commerce shall fulfill all contracts in existence on the effective date of this act between the Kansas technology enterprise corporation and the alternative agriculture research and development center.

History: L. 1996, ch. 209, sec. 2; L. 201, ch. 5, sec. 328; L. 203, ch. 154, sec 60; July 1.

74-50,157. Powers, duties and functions transferred to the agricultural value added center within the agriculture products development division within the department of commerce. (a) The powers, duties and functions of the existing agricultural value added center are hereby transferred to and conferred and imposed upon the agricultural value added center created by this act subject to the limitations established in K.S.A. 74-50,156 and amendments thereto.

(b) The agricultural value added center created by this act shall be the successor in every way to the powers, duties and functions of the agricultural value added center, subject to the limitations established in K.S.A. 74-50,156, and amendments thereto, in which the same were vested prior to the effective date of this act. Every act performed under the authority of the agricultural value added center created by this act shall be deemed to have the same force and effect as if performed by the agricultural value added center in which such functions were vested prior to the effective date of this act.

(c) Whenever the "agricultural value added center," or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the agricultural value added center created by this act.

(d) All orders or directives of the agricultural value added center in existence on the effective date of this act shall continue to be effective and shall be deemed to be the orders or directives of the agricultural value added center created by this act until revised, amended, repealed or nullified pursuant to law.

(e) The agricultural value added center, within the department of commerce, created by this act shall be a continuation of the agricultural value added center being abolished pursuant to K.S.A. 74-8122 and amendments thereto.

History: L. 1996, ch. 209, sec 4; L. 2003, chl 154, sec. 61; July 1

74-50,158. Division of marketing and director of marketing; transfer of powers and duties to the secretary of commerce. (a) The secretary of commerce shall be the successor in every way to the powers, duties and functions of the division of marketing and the director of marketing in which the same were vested prior to the effective date of this act and which are transferred pursuant to K.S.A. 74-50,156 and amendments thereto. Every act performed in the exercise of such powers, duties and functions by or under the authority of the secretary of commerce shall be deemed to have the same force and effect as if performed by the division of marketing and the director of marketing in which such powers, duties and functions were vested prior to the effective date of this act.

(b) Whenever the "department of agriculture," "division of markets," or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to one of the powers and duties transferred to the agriculture products development division within the department of commerce pursuant to K.S.A. 74-50,156, and amendments thereto, such reference or designation shall be deemed to apply to the agriculture products development division within the department of commerce. Whenever "director of marketing," "secretary of agriculture" or words of like effect, are referred to or designated by a statute, contract or other document, and such reference is in regard to one of the powers and duties transferred to the agriculture products development division within the department of commerce pursuant to K.S.A. 74-50,156, and amendments thereto, such reference shall be deemed to apply to the secretary of commerce.

(c) All rules and regulations, orders and directives of the division of marketing, director of marketing or department of agriculture pertaining to powers and duties transferred pursuant to K.S.A. 74-50,156 shall continue to be effective and shall be deemed to be the rules and regulations, orders and directives of the department of commerce until revised, amended, repealed or nullified pursuant to law.

History: L. 196, ch. 209, sec 5; L. 2003, ch. 154, sec 62; July 1.

74-50,159. Transfer of employees. (a) On the effective date of this act, officers and employees who, immediately prior to such date, were engaged in the performance of any powers and duties of the Kansas department of agriculture listed in K.S.A. 74-50,156, and amendments thereto, which are transferred to the department of commerce, and who, in the opinion of the secretary of commerce, are necessary to perform the powers and duties of the department of commerce, shall be transferred to, and shall become officers and employees of such department.

(b) On the effective date of this act, officers and employees who, immediately prior to such date, were engaged in the performance of any powers and duties of the agricultural value added center which is abolished by this act and who, in the opinion of the secretary of commerce, are necessary to perform the powers and duties of the department of commerce, agriculture products development division, shall be transferred to and become officers and employees of such department.

History: L. 1996, ch. 209, sec. 7; L. 2003, ch. 154, sec 63; L. 2004, ch. 101, sec 179; July 1.

74-50,160. Property transferred; conflicts resolved by governor. (a) The secretary of agriculture and the secretary of commerce shall engage in consultations with the purpose of reaching agreement regarding the disposition of all property, property rights, and records which were used for or pertain to the performance of the powers and duties transferred to the department of commerce pursuant to this act.

(b) Any conflict as to the proper disposition of property, personnel, records, or the unexpended balance of any appropriation arising as a result of any abolition, transfer, attachment or change made by or under this order shall be determined by the governor, whose decision shall be final.

History: L. 1996, ch. 209, sec. 8; L. 2003, ch. 154, sec 64; July 1.

74-50,161. Civil or criminal actions not effected. (a) No suit, action, or other proceeding, judicial or administrative, lawfully commenced, or which could have been commenced, by or against any state agency or program mentioned in this act, or by or against any officer of the state in such officer's official capacity or in relation to the discharge of such officer's official

duties, shall abate by reason of the governmental reorganization effected under the provisions of this act. The court may allow any such suit, action, or other proceeding to be maintained by or against the successor of any such state agency or any officer affected.

(b) No criminal action commenced or which could have been commenced by the state shall abate by the taking effect of this act.

History: L. 1996, ch. 209, sec 9; July 1.

74-50,162. Funds and liabilities transferred. (a) On the effective date of this act, the balances of all funds appropriated or reappropriated to the Kansas department of agriculture, the agricultural value added center at the Kansas technology enterprise corporation for any of the powers and duties transferred to the department of commerce pursuant to K.S.A. 74-50,156, and amendments thereto, are hereby transferred to the department of commerce and shall be used only for the purpose for which the appropriation was originally made.

(b) On the effective date of this act, the liability for all accrued compensation, wages or salaries of officers and employees who, immediately prior to such date, were engaged in the performance of powers, duties or functions of the Kansas department of agriculture, the agricultural value added center at the Kansas technology enterprise corporation which are transferred to the department of commerce pursuant to K.S.A. 74-50,156, and amendments thereto, shall be assumed and paid by the department of commerce.

History: L. 1996, ch. 209, sec. 10; L. 2003, ch. 154, sec. 65; L. 2004, ch. 101, sec. 180; July 1.

74-50,163. Agriculture products development advisory board; members; duties. (a) There is hereby created an agriculture products development advisory board. Members shall be appointed by the governor as follows, one member shall be a representative of the livestock industry, one member shall be a representative of a farmer's cooperative active in community economic development, one member shall be a representative of a commodity group, two members shall be representatives of entrepreneurs in a value added business, one member shall be a financial or investment banker or a seed capital fund manager and one member shall be from the marketing section of the agriculture products development division of the department of commerce.

(b) Of the members first appointed to the board, the governor shall designate four whose terms shall expire June 30, 1998, and three whose terms shall expire on June 30, 2000. After the expiration of such terms, each member shall be appointed for a term of four years until a successor is appointed and qualified.

(c) A vacancy on the board of a member shall be filled for the unexpired term by appointment by the governor.

(d) The governor shall appoint a chairperson.

(e) The board shall meet as the chairperson or a majority of the board members determine.

(f) The board shall advise the secretary of commerce and the agriculture products development division on issues and concerns of agriculture product development and technical assistance for such development.

History: L. 1996, ch. 209, sec. 11; L. 2003, ch. 154, sec. 66; July 1.